

APPLICANTS:
Craig & Patricia Shriver

REQUEST: A variance to permit an addition
to encroach into the 40 foot front yard setback

HEARING DATE: August 17, 2005

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5494

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Craig S. Shriver

CO-APPLICANT: Patricia A. Shriver

LOCATION: 2301 Carlo Road – White House Park, Fallston
Tax Map: 48 / Grid: 3A / Parcel: 350 / Lot: 15A
Third Election District (3rd)

ZONING: RR / Rural Residential

REQUEST: A variance, pursuant to Section 267-35B, Table III, of the Harford County Code, to permit an addition to encroach into the 40 foot front yard setback (20 feet proposed).

TESTIMONY AND EVIDENCE OF RECORD:

The subject property is an approximately .55 acre lot located off Carrs Mills Road. The property is improved by a single-family rancher which has had an addition built to its rear. The Applicants, who reside on the subject property with their family, propose to construct a 28 foot wide by 25 foot long addition to the northwest side of their home. The new addition will be used as a residence for the mother of the Co-Applicant who presently resides in an assisted living facility.¹ The proposed addition, however, will encroach into the front yard setback by approximately 20 feet which, accordingly, requires a variance.

The Applicants described the proposed addition as one-story in height with a basement. Its construction, design and appearance will match that of the existing home.

¹ Apparently, the addition will be constructed with a kitchen for the mother's use. The Applicants acknowledged at the hearing that the kitchen must be removed at such time as the mother vacates the property.

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The Applicants believe their property is unique. The subject property fronts on Carlo Road, which dead-ends directly at their property. However, Carlo Road was originally designed and platted to intersect at “Carlo Court” just past the subject property. Carlo Court was never constructed. The subject property therefore lies at the intersection of Carlo Road - an operating roadway - and Carlo Court - a paper road. Accordingly, at least on paper, the Applicants have two front yards and are accordingly required to maintain two front yard setbacks - one to Carlo Road to the front of the house, and the other to Carlo Court to the side of the home. The area originally proposed for Carlo Court is now completely wooded. The proposed addition of the Applicants would, as a result, face Carlo Road, but would be into the front yard setback along the platted but not constructed Carlo Court.

The Applicants also believe that the addition can not be placed on the opposite side, that is, the southeast side of the property, as their carport is located in that area. The proposed addition can not be placed in the back because of an existing enclosed patio.

The Applicants feel that the construction of an addition into the Carlo Court front yard setback would have no impact on any adjoining property owner or neighbor. The Applicants have talked to their neighbors and none has expressed any opposition. The Applicants also state that out of the approximately twenty-six homes on their street, all but two have similar additions.

For the Harford County Department of Planning and Zoning testified Dennis Sigler. Mr. Sigler described the topography of the property as sloping up from Carlo Road to the Applicants’ residence. The proposed addition itself, although only one story in height, will actually look larger because of the slope of the land.

The property on the Carlo Court side is, in fact, a large Natural Resources District and open space. There are no homes located in that area.

If granted a setback variance, the addition would nevertheless be no closer than 20 feet to the Carlo Court side lot line. This setback is consistent with many other homes in the neighborhood which are only required to setback 20 feet from side yard lot lines.

Mr. Sigler feels that this unique feature of the subject property justifies the granting of a variance. The use would have no impact, in his opinion, on any neighbor or adjoining property owner. Mr. Sigler feels that given the existing topography and location of the proposed addition, no additional landscaping will be necessary.

There was no testimony or evidence presented in opposition.

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APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.

C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants live in an attractive community of single family homes. The Applicants’ property itself is improved by a single family rancher which is located at a somewhat higher elevation than Carlo Road, on which it fronts. The home has what appears to be a 50 foot setback from Carlo Road, and the proposed addition will also be approximately 50 feet back from Carlo Road.

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Very interestingly, and very unusually, while a corner lot and therefore required to observe two 40 foot front yard setbacks, in fact Carlo Court, or the road to the side of the subject property, is in fact a paper road and is unimproved. That area is now, according to the testimony of Mr. Sigler, a designated Natural Resources District and is open space. This is an unusual feature of the Applicants' property and is one which would prohibit the Applicants from enjoying a use which others not similarly impacted can make of their properties. Specifically, the Applicants are impacted by two 40 foot front yard setbacks which restrict the Applicants' available building space. The 40 foot setback restriction along Carlo Court has no purpose. To require the Applicants to observe the restriction serves no purpose, achieves no goal, reduces available space, and accordingly constitutes an unusual hardship.

It is accordingly found that the subject property suffers an unusual feature which causes the Applicants a hardship, which is their inability to construct an addition similar to others in the community and throughout Harford County. The variance, if granted, would have no impact upon any surrounding neighbors or on the neighborhood and would, in fact, appear to be an addition in keeping with the building types and uses in the community.

CONCLUSION:

For the above reasons it is recommended that the proposed requested variance be granted subject to the Applicants obtaining all necessary permits and inspections.

Date: September 2, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 3, 2005.